

AMENDED IN SENATE MAY 27, 2014

AMENDED IN SENATE APRIL 22, 2014

SENATE BILL

No. 941

Introduced by Senators Monning and DeSaulnier
(Coauthor: Assembly Member Buchanan)

February 4, 2014

An act to add Article 1.4 (commencing with Section 678) to Chapter 5 of Division 3 of the Harbors and Navigation Code, relating to vessels.

LEGISLATIVE COUNSEL'S DIGEST

SB 941, as amended, Monning. Vessel operator cards.

(1) Existing law prohibits the operation or navigation of a for-hire vessel, as defined, in the waters of California while carrying passengers, except by a person who holds a valid operator's license issued by the Division of Boating and Waterways. Under existing law, a person applying for an operator's license is required to undergo an examination, that may include, among other things, an inspection of the for-hire vessel.

Existing law requires the division to approve boating safety courses and personal watercraft education courses, as specified.

This bill would prohibit the operation of a vessel that is propelled by an engine in the waters of the state except by a person who is in possession of a valid vessel operator card developed and issued by the division, and would impose that prohibition on persons pursuant to a specified schedule. The bill would exempt certain persons from that requirement and would allow a person who rents a vessel to instead possess a rental vessel operator card, as specified.

The bill would require the division to develop vessel operator cards and issue a vessel operator card to a person who provides the division

with proof that the person has passed a vessel operator examination and would ~~require~~ *authorize* the division to develop an ~~examination and examination~~. *The bill would require the division to provide links to approved examinations on its Internet Web site. The bill would require the division to charge an unspecified fee specified fees for those cards, would establish the Vessel Operator Certification Account in the Harbors and Watercraft Revolving Fund, and would require the fees to be deposited in that account. The bill would authorize the division to expend the moneys in the account, upon appropriation by the Legislature, for purposes of the vessel operator card program.*

~~The bill would require the division to adopt implementing regulations.~~

The bill would require an amount not to exceed \$4,000,000 to be transferred, upon appropriation in the annual Budget Act, from the Harbors and Watercraft Revolving Fund to the Vessel Operator Certification Account in the form of a loan to be used by the division to develop and establish the program. The bill would require the division to repay the loan from fees received from the issuance of vessel operator cards within ~~3~~ 8 years of the effective date of ~~the regulations issued by the division~~. *this act.*

The bill would provide that a violation of the bill's provisions is an infraction, and would require a court to order a person who violates those provisions to complete and pass a boating safety course approved by the division. By creating a new crime, this bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Article 1.4 (commencing with Section 678) is
2 added to Chapter 5 of Division 3 of the Harbors and Navigation
3 Code, to read:

4
5 Article 1.4. Vessel Operators' Education and Certification Cards
6

1 ~~678. The division shall adopt regulations to implement this~~
2 ~~article or to make this article more specific, including regulations~~
3 ~~setting forth the fees to be charged and collected pursuant to~~
4 ~~Section 678.5.~~

5 ~~678.3.~~

6 678. (a) On or before December 31, 2017, the division shall
7 develop a vessel operator card and a rental vessel operator card to
8 be issued pursuant to this article.

9 (b) The division shall issue, or cause to be issued, a vessel
10 operator card to a person who provides the division with proof that
11 the person has passed a vessel operator examination approved by
12 the division or a vessel operator course that includes an
13 examination and is approved by the division pursuant to Section
14 668.1 or 668.3.

15 (c) Except for a rental vessel operator card issued pursuant to
16 Section ~~678.15~~, 678.13, a vessel operator card shall be valid for
17 the life of the person to whom it is issued.

18 ~~678.5.~~

19 678.3. (a) (1) The division shall determine the fees required
20 under this section in amounts sufficient to cover the reasonable
21 costs of the development, establishment, and operation of the
22 program. The fees shall not exceed those costs.

23 (2) The division shall charge a fee not to ~~exceed~~ exceed
24 *thirty dollars (\$30)* for the initial vessel operator card issued
25 pursuant to subdivision (b) of Section ~~678.3~~. 678.

26 (3) The division shall charge a fee not to ~~exceed~~ exceed *ten*
27 *dollars (\$10)* for a duplicate vessel operator card issued pursuant
28 to subdivision (b) of Section ~~678.3~~. 678.

29 (b) In determining the amount of the fees imposed pursuant to
30 this section, the division shall establish, and consult with, a
31 technical advisory group consisting of interested persons, including,
32 but not limited to, representatives of the boating community. The
33 director shall appoint the members of the advisory group.

34 (c) The fees collected pursuant to this section shall be deposited
35 in the Vessel Operator Certification Account, which is hereby
36 established within the Harbors and Watercraft Revolving Fund.

37 (d) The division may expend the moneys in the Vessel Operator
38 Certification Account, upon appropriation by the Legislature, for
39 purposes of implementing this article.

1 ~~678.7.~~

2 678.5. (a) The division ~~shall~~ *may* develop and provide a vessel
3 operator examination on the division's Internet Web ~~site and site.~~
4 *The division* shall provide links from the division's Internet Web
5 site to other vessel operator examinations approved by the division
6 that are available through a provider whose course has been
7 approved by the National Association of State Boating Law
8 Administrators.

9 (b) If the division contracts for the provision of vessel operator
10 examination services with test vendors, the division shall conduct
11 a formal competitive bid process and shall contract with more than
12 one vendor for those services.

13 (c) A vessel operator examination developed or approved by
14 the division shall be consistent with the National Association of
15 State Boating Law Administrators' National Boating Education
16 Standards, as applicable to basic vessel operations, rules of
17 navigation, and boating safety only.

18 ~~678.9.~~

19 678.7. (a) An amount not to exceed four million dollars
20 (\$4,000,000) shall, upon appropriation in the annual Budget Act,
21 be transferred from the Harbors and Watercraft Revolving Fund
22 to the Vessel Operator Certification Account in the form of a loan
23 to be used by the division to develop and establish the program
24 under this article.

25 (b) The division shall repay the loan described in subdivision
26 (a) from fees received pursuant to Section ~~678.5~~ 678.3 within ~~three~~
27 *eight* years of the effective date of ~~the regulations issued by the~~
28 ~~division pursuant to this article.~~

29 (c) If the division has not repaid the loan within the time period
30 specified in subdivision (b), the division shall notify the Joint
31 Legislative Budget Committee.

32 (d) The loan shall not impair the intended expenditure purposes
33 of the Harbors and Watercraft Revolving Fund.

34 ~~678.11.~~

35 678.9. (a) On or before April 1, 2019, and on or before April
36 1 annually thereafter, the division shall prepare a report that
37 includes all of the following information with respect to the prior
38 calendar year:

39 (1) The total number of vessel operator cards issued pursuant
40 to this article.

(2) The fees collected, and the costs incurred, by the division pursuant to this article.

(3) The correlation between vessel operator cards issued and the number of accidents, injuries, and fatalities related to the operation of vessels in the ~~state~~; *state that are reported pursuant to Section 656*.

(4) ~~The total number of violations of this article~~; *article reported to the division*.

(b) The report shall be posted on the division's Internet Web site.

~~678.13.~~

~~678.11.~~ (a) Subject to the schedule in subdivision (b), a person shall not operate on waters subject to the jurisdiction of the state a vessel that is propelled by an engine, regardless of whether the engine is the principal source of propulsion, unless the person has in his or her possession a vessel operator card issued by the division pursuant to subdivision (b) of Section ~~678.3~~; 678.

(b) A person is subject to subdivision (a) according to the following schedule:

(1) On and after January 1, 2018: A person 20 years of age or younger.

(2) On and after January 1, 2019: A person 25 years of age or younger.

(3) On and after January 1, 2020: A person 35 years of age or younger.

(4) On and after January 1, 2021: A person 40 years of age or younger.

(5) On and after January 1, 2022: A person 45 years of age or younger.

(6) On and after January 1, 2023: A person 50 years of age or younger.

(7) On and after January 1, 2024: A person 60 years of age or younger.

(8) On and after January 1, 2025: All persons, regardless of age.

(c) This section does not apply to the following:

(1) A person who is a resident of another state or a foreign country who is operating a vessel and meets either of the following requirements:

1 (A) The person is temporarily using the waters of this state for
2 a period not to exceed 60 days, and meets the applicable
3 requirements, if any, of his or her state of residency.

4 (B) The person is temporarily using the waters of this state for
5 a period not to exceed 90 days, and meets the applicable
6 requirements, if any, of his or her country of residency.

7 (2) A person operating a vessel while under the direct
8 supervision of a person 18 years of age or older who is in
9 possession of a vessel operator card issued pursuant to subdivision
10 (b) of Section ~~678.3~~ 678 or a rental vessel operator card issued
11 pursuant to Section ~~678.15~~ 678.13 or *who* is not required to possess
12 a vessel operator card pursuant to paragraph (6).

13 (3) A person operating a vessel in an organized regatta or vessel
14 race, or water ski race.

15 (4) A person operating a rental vessel who is in possession of
16 a rental vessel operator card pursuant to Section ~~678.15~~ 678.13.

17 (5) A person who is in possession of a current commercial
18 fishing license.

19 (6) A person who is in possession of a valid marine operator
20 license, for the waters upon which the licensee is operating, issued
21 by the United States Coast ~~Guard~~ *Guard*, or *who is in possession*
22 *of a valid certificate issued pursuant to the International*
23 *Convention on Standards of Training, Certification and*
24 *Watchkeeping for Seafarers, 1978, as amended.*

25 ~~678.15.~~

26 678.13. (a) On and after January 1, 2018, ~~a person engaged in~~
27 ~~the business of providing for rent a vessel or vessels propelled by~~
28 ~~an engine, regardless of whether the engine is the principal source~~
29 ~~of propulsion,~~ *rental agent* shall require the renter or operator of
30 ~~the~~ a rental vessel to show proof of possession of a vessel operator
31 card issued pursuant to subdivision (b) of Section ~~678.3~~ 678 before
32 renting a vessel. If the renter or operator of the rental vessel does
33 not provide proof of possession of a vessel operator card, the rental
34 agent shall, subject to the requirements of subdivision (b), issue
35 to the renter or operator of the rental vessel a rental vessel operator
36 card developed by the division pursuant to subdivision (a) of
37 Section ~~678.3~~ 678 and a map of the waterway the renter or operator
38 indicates is the location of intended operation.

39 (b) (1) ~~The~~ *A rental agent shall issue* a rental vessel operator
40 ~~card shall be issued~~ only to a person who completes and passes a

1 rental vessel operator examination that is developed or approved
2 by the division for the purpose of this section.

3 (2) The rental vessel operator examination that is developed by
4 the division shall be an abbreviated version of the vessel operator
5 examination developed by the division pursuant to Section ~~678.7~~
6 ~~678.5~~ with a focus on basic vessel operation, navigation, and safety.
7 *The division shall make the examination available on its Internet*
8 *Web site.*

9 (3) The division shall also approve site-specific rental vessel
10 operator examinations. These site-specific examinations shall be
11 tailored to and recognize the vessel rental circumstances, include
12 information specific to the type of vessel and the type of waterway,
13 and provide information concerning state boating laws, operating
14 instructions, equipment operation, and boating safety.

15 (4) *The division may charge a rental agent a fee to cover the*
16 *costs to the division of approving a site-specific rental vessel*
17 *operator examination pursuant to paragraph (3) for the site at*
18 *which the rental agent operates. The fee shall not exceed those*
19 *costs.*

20 ~~(4)~~

21 (5) A person may satisfy the requirements of the rental vessel
22 operator examination by passing the division-developed rental
23 operator examination or an approved site-specific rental vessel
24 operator examination.

25 (c) A rental vessel operator card shall be valid for a period of
26 not more than 30 days from the date of the initial rental for which
27 the card was issued pursuant to subdivision (a).

28 (d) *For purposes of this section, "rental agent" means a person*
29 *engaged in the business of providing for rent a vessel or vessels*
30 *propelled by an engine, regardless of whether the engine is the*
31 *principal source of propulsion.*

32 ~~678.17.~~

33 ~~678.15.~~ (a) A violation of this article is an infraction.

34 (b) A person convicted of an infraction for a violation of this
35 article shall be punished as follows:

36 (1) For an initial conviction, by a fine of not more than one
37 hundred dollars (\$100).

38 (2) For a second conviction, by a fine of not more than two
39 hundred fifty dollars (\$250).

1 (3) For a third or subsequent conviction, by a fine of not more
2 than five hundred dollars (\$500).

3 (c) A fine imposed on a vessel operator pursuant to subdivision
4 (b) shall be waived, if the vessel operator provides proof that he
5 or she had a valid vessel operator card or rental vessel operator
6 card at the time of the citation.

7 (d) (1) In addition to the fines imposed by subdivision (b), the
8 court shall order a person convicted of violating this article to
9 complete and pass a boating safety course approved by the division
10 pursuant to Section 668.3.

11 (2) If a person who is ordered to complete and pass a boating
12 safety course pursuant to paragraph (1) is 18 years of age or
13 younger, the court may require that person to obtain the consent
14 of a parent or guardian to enroll in that course.

15 (3) A person who has been ordered by a court to complete a
16 boating safety course pursuant to paragraph (1) shall submit to the
17 court proof of completion and passage of the course within seven
18 months of the date of his or her conviction. The proof shall be in
19 a form that has been approved by the division and that is capable
20 of being submitted to the court or a state or local agency approved
21 by the division through the United States Postal Service or another
22 certified means of transmission.

23 SEC. 2. No reimbursement is required by this act pursuant to
24 Section 6 of Article XIII B of the California Constitution because
25 the only costs that may be incurred by a local agency or school
26 district will be incurred because this act creates a new crime or
27 infraction, eliminates a crime or infraction, or changes the penalty
28 for a crime or infraction, within the meaning of Section 17556 of
29 the Government Code, or changes the definition of a crime within
30 the meaning of Section 6 of Article XIII B of the California
31 Constitution.